

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
June 12, 2006

**D047037      People v. Moriel**

The judgment is affirmed. Benke, J.; We Concur: McConnell, P.J., Aaron, J.

**D048183      In re Izick W. et al., Juveniles**

The appeals are dismissed. Aaron, J.; We Concur: Huffman, Acting, P.J., Nares, J.

**D046544      People v. Rodriguez**

The judgment is affirmed. McIntyre, J.; We Concur: McDonald, Acting P.J., O'Rourke, J.

**D046318      People v. Stratton**

The judgment is affirmed. Aaron, J.; We Concur: McDonald, Acting P.J., McIntyre, J.

Court convened at 9:00 a.m.

Present: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Cynthia Aaron

Clerk: D. Moore

**D046158      Albrecht v. Bassford**

Cause called on merits. Richard R. Ravreby, Esq. argued for appellant. John Knoll, Esq. argued for respondent. Mr. Ravreby replied. Cause submitted.

Court recessed at 9:25 a.m. to change panel members. New panel members: The Honorable Gilbert Nares, Acting Presiding Justice, and The Honorable Associate Justices Terry O'Rourke and Cynthia Aaron

**D045875      Cafe Sevilla, Inc. v. Om Enterprises, Inc.**

Cause called on merits. Mark-Robert Bluemel, Esq. argued for appellant. Richard A. Higgins, Esq. argued for respondent. Mr. Bluemel replied. Cause submitted.

Court recessed at 9:42 a.m. until 1:30 p.m.

**D046655      People v. Fields**

The judgment is affirmed. McConnell, P.J.; We Concur: Benke, J., Irion, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
June 12, 2006 (Continued)

**D046430      People v. Smith**

The judgment is affirmed. McIntyre, J.; We Concur: Nares, Acting P.J., O'Rourke, J.

**D044470      Thomas et al. v. Duggins Construction Company Inc., et al.**

The above referenced opinion is modified to include Justice McDonald's signature. No change in judgment.

Court convened at 1:30 p.m.

Present: The Honorable Judith McConnell, Presiding Justice, and the Honorable Associate Justices James McIntyre and Cynthia Aaron.

Clerk: Brandon Henson

**D048097      Elliott v. California State Personnel Board/Board of Trustees of California State University**

Matter called on merits. A. Kendall Wood, Esq. argued for petitioner. Regina Petty, Esq. argued for real parties in interest. Mr. Wood replied. Cause submitted.

Court recessed at 2:10 p.m. to change panel members. New panel members: The Honorable Judith McConnell, Presiding Justice, and the Honorable Associated Justices Terry O'Rourke and Joan Irion.

**D046709      Century National Insurance Company v. Abbott**

Cause called on merits. James Switzer, Esq. argued for appellant. Mark Ginella, Esq. argued for respondent. Mr. Switzer replied. Cause submitted.

Court recessed at 2:40 p.m.

**D048770      O. A. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency.**

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
June 13, 2006

**D044862      Tremain Enterprises, Inc. v. Netherton**

The court has been advised that the bankruptcy case of appellant Netherton has been dismissed. This court's stay order of November 23, 2004, is vacated. Upon written stipulation filed by the parties to the appeal, the appeal is dismissed and the remittitur is ordered to issue immediately. Each party to bear own costs on appeal.

**D047036      People v. Pascua**

The judgment is affirmed. Aaron, J.; We Concur: McConnell, P.J., McDonald, J.

**D047099      People v. Reynolds**

The judgment is affirmed. O'Rourke, J.; We Concur: McDonald, Acting, P.J., McIntyre, J.

**D046924      People v. Strangler**

The judgment is affirmed. Haller, J.; We Concur: Benke, Acting P.J., McIntyre, J.

Court convened at 9:00 a.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Cynthia Aaron  
Clerk: D. Moore

**D047314      Allegrino II v. Mathur et al.**

Cause called on merits. No appearance by Anthony J. Allegrino. Guylyn R. Cummins, Esq. argued for appellant. Cause submitted.

**D046484      Kushner et al. v. AT&T Corporation**

Cause called on merits. Mark L. Knutson, Esq. argued for appellant. Nancy L. Stagg, Esq. argued for respondent. Mr. Knutson replied. Cause submitted.

Court recessed at 9:45 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Patricia Benke and Joan Irion  
Clerk: D. Moore

**D046986      People v. Hunter**

Cause called on merits. Patrick Morgan Ford, Esq. argued for appellant. Stephanie Crow, Deputy Attorney General argued for respondent. Mr. Ford replied. Cause submitted.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
June 13, 2006 (Continued)

**D047409      In re Daniel C. et al., Juveniles**

Cause called on merits. Linda Rehm, Esq. argued for appellant. Gary Seiser, Deputy County Counsel argued for respondent. Robert W. Gehring, Esq. argued for minor. Ms. Rehm replied. Cause submitted.

**D047648      Chandler v. Wilburn et al.**

Cause called on merits. Darrell Wilburn, argued for appellant in pro per. Robert C. Chandler, argued for respondent in pro per. Mr. Wilburn replied. Cause submitted.

**D046739      Sanford et al. v. West Corporation et al.**

Cause called on merits. Patrick J. Coughlin, Esq. argued for appellant. Kevin K. Green, Esq. argued for respondent. Mr. Coughlin replied. Cause submitted.

Court recessed at 2:55 p.m. until Wednesday, June 14, 2006 at 9:00 a.m.

**D046693      Brady et al. v. County of Imperial**

The order is affirmed. Defendants are entitled to costs on appeal. McDonald, Acting P.J., We Concur: McIntyre, J., Aaron, J.

**D048330      In re Butler on Habeas Corpus**

The petition is denied.

**D046363      McClenty v. Ward**

The order is affirmed and McClenty is declared a vexatious litigant who is required to obtain the permission of the presiding judge whenever he proposes to file additional litigation within the State of California.

**D047032      Atkerson v. Imperial Irrigation District**

The petition for rehearing is denied.

**D048718      People v. Bubeck et al.**

The petition for transfer is denied.

**D047269      People v. Torrey**

The judgment is affirmed. McDonald, Acting, P.J.; We Concur: McIntyre, J., O'Rourke, J.

**D047088      Brierton v. Department of Motor Vehicles**

The judgment of the trial court denying Brierton's petition for a writ of mandate is affirmed.  
CERTIFIED FOR PUBLICATION Aaron, J.; We Concur: Benke, Acting P.J., Huffman, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
June 13, 2006 (Continued)

**D047237      People v. Schmidt**

The judgment is affirmed. Huffman, Acting P.J.; We Concur: McIntyre, J., O'Rourke, J.

**D046507      Dann v. City of San Diego**

The judgment of the trial court in favor of the City is affirmed. The order imposing sanctions against Dann is reversed. The parties shall bear their own costs on appeal. Aaron, J.; We Concur: McDonald, Acting P.J., McIntyre, J.

**D048009      In re Christian P., a Juvenile**

The judgment is affirmed. McIntyre, J.; We Concur: McConnell, P.J., Nares, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
June 14, 2006

**D047597      Deffenbaugh et al. v. Mobile Systems Wireless Inc., et al.**

Upon filing written abandonments of appeals, the appeal filed by Cingular Wireless LLC and the appeal filed by Mobile Systems Wireless, Inc. are dismissed and the remittitur is ordered to issue immediately.

**D046249      People v. Govedarov**

The judgment is affirmed. McDonald, J.; We Concur: McConnell, P.J., Huffman, J.

**D046144      People v. Carr**

The judgment is affirmed. McConnell, P.J.; We Concur: Benke, J., O'Rourke, J.

**D046584      People v. McDowell**

The judgment is affirmed. McDonald, J.; We Concur: Benke, Acting P.J., Nares, J.

**D047125      People v. Alcantar**

The judgment is affirmed. Haller, Acting P.J.; We Concur: McIntyre, J, Aaron, J.

**D046391      People v. Montijo, Sr.**

The judgment is affirmed. Nares, Acting P.J.; We Concur: O'Rourke, J., Irion, J.

**D047158      O'Toole et al. v. Superior Court of San Diego County/San Diego Community College District et al.**

**D047230      San Diego Community College District et al. v. Superior Court of San Diego County/O'Toole et al.**

(Consolidated cases) We deny the petition of plaintiffs Jonathan O'Toole, Michelle Chavez, Jason Conrad, Katherine Ford, Daniel McCullough, and Meghan O'Toole. We grant the petition of defendants San Diego Community College District, David Vasquez, Kevin Olson, Joel Pabelico, and Albert Abutin. Let a writ of mandate issue directing the superior court to vacate its order denying summary judgment in favor of defendants and to enter summary judgment in defendants' favor. Plaintiffs to bear defendants' costs in this writ proceeding. CERTIFIED FOR PUBLICATION      Haller, Acting P.J.; We Concur: McDonald, J., O'Rourke, J.

**D046439      Donner Management Company et al. v. Schaffer**

The court grants rehearing on its own motion as to the opinion filed on May 17, 2006, and requests supplemental briefing on the following issue.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
June 14, 2006 (Continued)

Court convened at 9:00 a.m.

Present: The Honorable Gilbert Nares, Acting Presiding Justice, and the Honorable Associate Justices James McIntyre and Cynthia Aaron  
Clerk: D. Moore

**D046589      Najor v. Ateeq et al.**

Cause called on merits. Joseph D. Curd, Esq. argued for appellant. Robert J. Hanna, Esq. argued for respondent. Mr. Curd replied. Cause submitted.

**D047137      Winick v. Sarafa**

Cause called on merits. David A. Kay, Esq. argued for appellant. Thomasina Marne Reed, Esq. argued for respondent. Mr. Kay replied. Cause submitted.

Court recessed at 9:40 a.m. to change panel members. New panel members: The Honorable Gilbert Nares, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Joan Irion

**D046852      Thacher v. Touitou**

Cause called on merits. Richard Scott VanDyke, Esq. argued for appellant. Wayne Templin, Esq. argued for respondent. Mr. VanDyke replied. Cause submitted.

Court recessed at 9:56 a.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Judith Haller

**D046784      People v. Pina**

Cause called on merits. Matthew Braner, Deputy Public Defender argued for appellant. Shannon Kitten, Deputy Attorney General argued for respondent. Mr. Braner replied. Cause submitted.

Court recessed at 10:39 a.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Terry O'Rourke

**D045850)      Ona M. Kennedy Family Partnership et al. v. HCP Chamber LLC**

**D046494)      Ona M. Kennedy Family Partnership et al. v. HCP Chamber LLC**

Cause called on merits. Michael H. Fish, Esq. argued for appellant. Kathryn E. Karcher, Esq. argued for respondent. Mr. Fish replied. Cause submitted.

Court recessed at 11:47 a.m. until 1:30 p.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
June 14, 2006 (Continued)

Court reconvened at 1:30 p.m.

Present: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Terry O'Rourke and Joan Irion

**D045882      Arechiga v. Arguilez**

Cause called on merits. Bennett Goodman, Esq. argued for appellant/cross-respondent. Dan Belsky, Esq. argued for respondent/cross-appellant. Mr. Goodman replied. Cause submitted.

Court recessed at 1:52 p.m. to change panel members. New panel members: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Patricia Benke and Terry O'Rourke

**D046422      Laycock v. Hammer Jr., et al.**

Cause called on merits. Stuart L. Leviton, Esq. argued for appellant. Elaine Chan, Esq. argued for respondent. Cause submitted.

Court adjourned at 2:15 p.m.

**D048229      In re Skoor on Habeas Corpus**

The petition is denied.



COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
June 15, 2006

**D046244      People v. Morgan**

The judgment is affirmed. O'Rourke, J.; We Concur: Nares, Acting P.J., Irion, J.

**D041383      Apex Wholesale, Inc. v. Fry's Electronics, Inc.**

Apex's request for judicial notice is denied. Fry's request that we not consider Apex's lodged exhibits is denied. The judgment is reversed as to the adjudication of Apex's fourth cause of action for intentional interference with prospective economic advantage in favor of Fry's. The judgment is otherwise affirmed. The orders denying Apex's motion for JNOV as to its first cause of action and denying Apex's motion for cost of proof sanctions are affirmed. The parties are to bear their own costs on appeal. Nares, J.; We Concur: Benke, Acting P.J., Irion, J.

**D047901      People v. Costner**

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately.

**D047778      Clear Channel Outdoor, Inc. v. Darmal et al.**

Upon filing a written abandonment of appeal, the appeal is dismissed and the remittitur is ordered to issue immediately.

**D046591      People v. Rusconi**

The judgment is affirmed. Huffman, Acting P.J.; We Concur: Nares, J., Irion, J.

**D045752      Sammis et al. v. Brobeck, Phleger & Harrison**

The order is reversed. The matter is remanded with directions that the trial court: (1) vacate its order granting Plaintiffs' motion for new trial; (2) issue an order granting Brobeck's motion for summary judgment; and (3) enter judgment in Brobeck's favor. Brobeck shall recover its costs on appeal. McDonald, J.; We Concur: Benke, Acting P.J., Aaron, J.

**D046628      People v. Harris**

Harris's section 368, subdivision (e) conviction and sentence on that conviction are reversed and the matter is remanded for resentencing. In all other respects, the judgment is affirmed. McDonald, J.; We Concur: Huffman, Acting P.J., Haller, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
June 16, 2006

**D047377      In re Jordan H., a Juvenile**

The judgment is affirmed. Irion, J.; We Concur: McConnell, P.J., Benke, J.

**D048226      In re Matti K., a Juvenile**

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rules 17(a)(1), 37.3(b)(5), and 37.4(a)(2). The appeal is dismissed.

**D047413      People v. Abrams**

The judgment is affirmed. McDonald, Acting P.J.; We Concur: McIntyre, J., Aaron, J.

**D046265      People v. Maxwell**

The judgment is affirmed. McIntyre, Acting P.J.; We Concur: O'Rourke, J., Irion, J.

**D046706      People v. Vargas**

The judgment is affirmed. O'Rourke, J.; We Concur: McIntyre, Acting P.J., Aaron, J.

**D048198      In re Faith B., a Juvenile**

The appeal is dismissed. McIntyre, J.; We Concur: Haller, Acting P.J., Irion, J.

**D048350      McKinley v. Worker's Compensation Appeals Board and Baer Enterprises et al.**

The petition is denied.

**D048050      In re Nicole H., a Juvenile**

Respondent's motion to dismiss appeal as moot and appellant's opposition have been read and considered by Justices McIntyre, Benke and Aaron. The motion is granted. The appeal is dismissed.